

**UNITED STATES BANKRUPTCY COURT**  
**Western District of New York**

In Re:

Bankruptcy Case No. .

Debtor

**APPLICATION TO PAY ADVERSARY PROCEEDING  
FILING FEES IN INSTALLMENTS.**

In accordance with 28 U.S.C. section 1914(a), application is made by  
(hereinafter referred to as Applicant) for permission to pay the  
adversary proceeding filing fee on the following terms: .

the balance of \_\_\_\_\_ with the filing of the Summons and Complaint, and  
\_\_\_\_\_ as follows, to wit:  
installment of \_\_\_\_\_ shall be paid on before \_\_\_\_\_, and the final  
\_\_\_\_\_ shall be paid on before \_\_\_\_\_

I certify that I have not paid any money or transferred any property to an  
attorney or any other person for services in connection with this matter or in  
connection with any other pending bankruptcy case and/or adversary proceeding and  
that I will not make any payment or transfer any property for services in  
connection with the subject matter until the adversary proceeding filing fee is  
paid in full, and I CERTIFY THAT I AM UNABLE TO PAY THE FILING FEE IN FULL UPON  
THE FILING OF THIS MATTER FOR THE FOLLOWING REASON(S) :

SEE STATEMENT ATTACHED HERETO AND MADE A PART HEREOF.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Address of Applicant

**ORDER**

IT IS ORDERED that the applicant pay the adversary filing fee in  
installments on the terms set forth in the foregoing application.

IT IS FURTHER ORDERED that until the filing fee is paid in full the  
applicant shall not pay, and no person shall accept, any money for services in  
connection with this matter, and the applicant shall not relinquish, and no  
person shall accept, any property as payment for services in connection with this  
matter.

IT IS FURTHER ORDERED THAT IF THE FILING FEE IS NOT FULLY PAID BY THE CLOSE  
OF BUSINESS ON \_\_\_\_\_ THIS MATTER SHALL BE DISMISSED WITHOUT THE NEED FOR  
FURTHER COURT ORDER.

\_\_\_\_\_  
Date

\_\_\_\_\_  
U.S. Bankruptcy Judge

DATE

ATTORNEY

RE:

Adversary Proceeding Number:

Dear :

The Court requires your cooperation in either concluding the above adversary proceeding or having the next steps in its prosecution expedited.

If, within ten (10) days of the date of this letter, the Court is not in receipt of:

- (1) an Answer,
- (2) a formal extension of time to Answer,
- (3) a Settlement Order,
- (4) a completed Default Judgment packet, if the debtor is not a defendant, or
- (5) a Notice of Motion and Motion for the entry of a Default Judgment pursuant to Rule 7055, along with a completed Default Judgment packet, if the debtor is the defendant,

these matters will be set down on the DATE Trial Calendar at 9:00 a.m. At that time, counsel for all parties which have appeared are required to appear and explain why one of the above has not been submitted or why this matter should not be set down for trial or dismissed.

Please feel free to contact Karen S. Tacy or Paula C. Finucane in the Clerk's Office at (716) 263-3148 if you have any questions or require any assistance in expediting this matter.

Sincerely,

Hon. John C. Ninfo, II  
U.S. Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK**

**NOTICE TO ATTORNEYS**

**EFFECTIVE NOVEMBER 25, 1996**

In response to the Bar Association's interest in expanding the role of telephonic pre-trial conferences in the Adversary Proceedings process and eliminating the need for such conferences where negotiations indicate that it is likely that an action will be settled without the need for a trial, the Court's Pre-Trial Notice (sample attached) has been redrafted to incorporate language that will give these attorneys the following two additional options.

**1. Telephonic Pre-trial Conferences:** This election allows attorneys who have had meaningful discussions in an attempt to narrow the issues involved and settle an action the option to have the pre-trial conference conducted by telephone. A written request for a telephonic pre-trial conference may be made by the Plaintiff's attorney. After the request is made and reviewed, the Court will determine whether to grant the request and will notify the attorneys.

**2. Waiver of Pre-Trial Conference:** This election allows attorneys who feel that based upon their negotiations the action will ultimately settle without the need for the Court to conduct a trial, the option to have the action immediately set down on one of the Court's next two Trial Calendars. However, if the attorneys elect to have an action set down on the Trial Calendar without a pre-trial conference being conducted, and the action does not settle before the Calendar call, no adjournments will be granted. The attorneys must appear at the Trial Calendar at which time a date certain for trial will be set. Out of town attorneys, however, will still be allowed to provide the Court and opposing counsel in advance with available trial dates, and thus have their appearance waived.

The two new options can only be elected by the Plaintiff's attorney completing the Pre-Trial Option form and returning it to the Court within 14 days of the date of the pre-trial notice. The Plaintiff's attorney must sign the form certifying that the Defendant's attorney has agreed to the option elected and also serve a completed form upon that attorney.

The Court is confident that this new practice will allow members of the Bar to further implement their commitment to the economical, efficient and cost-effective handling of these actions.

Should you have any questions regarding this notice, you are invited to call the Clerk's Office at (716) 263-3148.

**DATED: November 20, 1996**

**GERALYN M. VERSTRATEN  
DEPUTY CLERK IN CHARGE  
U.S. BANKRUPTCY COURT  
1220 U.S. COURTHOUSE  
ROCHESTER, NY 14614**

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

IN RE:

Debtor(s)

Case No.:

Plaintiff,

AP No.

vs

Defendant.

PRE-TRIAL OPTION FORM

\_\_\_\_\_ Negotiations have commenced and all parties to the action agree that a conference by telephone will serve to expedite a final settlement of this matter.

\_\_\_\_\_ Parties are conducting negotiations for settlement and elect to have this action set down on the \_\_\_\_\_ Trial Calendar (choose one of the next two months only) at 9:00 a.m. At the calendar, a date will be scheduled for Trial if the action has not been settled. Please note that Trial Calendar adjournments will not be granted.

I hereby certify that I have contacted the Defendant's Attorney and he has agreed to this election.

\_\_\_\_\_  
Plaintiff's Attorney

Dated: \_\_\_\_\_

xc: Deft.'s Atty.  
U.S. Trustee

**\*\*Plaintiff's Attorney must serve this notice on all parties.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge John C. Ninfo, II

\_\_\_\_\_ Approved

\_\_\_\_\_ Denied

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

IN RE: \_\_\_\_\_

Debtor(s).

Case No. \_\_\_\_\_

Plaintiff,

A.P. No. \_\_\_\_\_

vs.

Defendant.

NOTICE OF PRE-TRIAL CONFERENCE

TO THE PARTIES:

By Order of the Court, you are directed to appear at a Pre-trial Conference in the above-captioned matter before the Honorable John C. Ninfo, II, at 100 State Street, Room 2310, Rochester, NY 14614 on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_.

Failure to appear may result in the Court's granting of judgment in favor of your opponent.

If the parties are negotiating for a settlement, you may choose to conduct this Pre-trial Conference by telephone or you may elect to have this action immediately set down on one of the next two Trial Calendars wherein an appearance will be required. If you should elect to place the matter on the Trial Calendar without a Pre-Trial Conference being conducted, please note that Trial Calendar adjournments will not be granted. At the Calendar, the matter will be given a date certain for Trial if it has not been settled.

If the above criteria is met and you elect a telephonic Pre-trial Conference or placement on the Trial Calendar, you must file the attached Pre-Trial Option Form with the Court within 14 days from the date of this notice.

Martin H. Oogjen, III, Clerk

\_\_\_\_\_  
Adversary Proceedings Clerk

Dated:  
Enc.

To: Plaintiff's Attorney  
Defendant's Attorney  
U.S. Trustee

PLEASE BE ADVISED THAT THE COURT WILL ASSUME THERE IS AN ABSENCE OF CONFLICT WITH THE ABOVE PRE-TRIAL DATE IF WE DO NOT HEAR FROM YOU BY \_\_\_\_\_.

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK**

In Re:

BK. NO. .

Debtor.

Plaintiff,

vs.

AP NO. .

Defendant.

**O R D E R**

**BEFORE HON. JOHN C. NINFO, II:**

This . day of ., it is ORDERED that:

1. Discovery shall be completed by \_\_\_\_\_.
2. This case is assigned to the Trial Calendar commencing at 9:00 a.m. on \_\_\_\_\_.
3. An adjourned pre-trial conference is scheduled for \_\_\_\_\_ (by telephone to be initiated by \_\_\_\_\_).
4. A pre-trial memorandum shall be filed and served by the parties on or before \_\_\_\_\_.
5. Stipulations shall be submitted by the parties on or before \_\_\_\_\_.
6. Attached hereto as Exhibit A are the stipulations agreed to by the parties on \_\_\_\_\_.
7. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BY THE COURT,

Dated:

\_\_\_\_\_  
JOHN C. NINFO, II  
UNITED STATES BANKRUPTCY JUDGE

# LITIGATION PROPOSAL

(To be submitted when numerous Adversary Proceedings are Filed)

**PLEASE BE ADVISED THAT THIS FORM WHICH MAY BE MODIFIED AND EXPANDED TO REFLECT THE NATURE OF THE CASES INVOLVED MUST BE SUBMITTED TO THE COURT WITHIN 20 DAYS FROM THE DATE THE LAST OF THE COMPLAINTS ARE FILED.**

Debtor \_\_\_\_\_ Case No. \_\_\_\_\_

Attorney for Plaintiff \_\_\_\_\_

1. Complaints were Filed on (may be multiple dates): \_\_\_\_\_
2. All Complaints will be Served by: \_\_\_\_\_
3. All Answers will be Submitted by: \_\_\_\_\_
4. Preliminary Discovery will be Mailed Out by Pltf.'s Attorney by: \_\_\_\_\_
5. All Discovery will be Completed by: \_\_\_\_\_
6. Pre-trial Conferences will be Scheduled for: \_\_\_\_\_  
(Note: For Scheduling Purposes, Plaintiff's Attorney is to notify the Court if certain attorneys represent more than one defendant so that the pre-trials can be scheduled together.)
7. All Plaintiff's motions will be completed by: \_\_\_\_\_
8. Trials will be Scheduled for: \_\_\_\_\_  
(Note: A consolidated trial may be necessary on all or some issues.)
9. Unique circumstances that could be incurred: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPROVED Yes \_\_\_\_\_ No \_\_\_\_\_

WILL BE APPROVED WHEN THE FOLLOWING CHANGES ARE SUBMITTED:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CHANGES ARE TO BE SUBMITTED BY: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
JOHN C. NINFO, II  
U.S. BANKRUPTCY JUDGE